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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,030	09/08/2003	Michael Howard West		9051

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EXAMINER

PAK, JOHN D

ART UNIT PAPER NUMBER

1616

DATE MAILED: 09/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/657,030

Applicant(s)

WEST, MICHAEL HOWARD

Examiner

JOHN PAK

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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Claims 1-3 are pending in this application.

Applicant is advised to specify the percentages recited in claim 1, e.g. % by weight, % by parts, % by volume, etc. In so doing, applicant should provide the descriptive support for the amendment – i.e. explain how the change from “%” to, for example, “% by weight” does not constitute new matter.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Davies et al. (GB 1,147,671).

Davies et al. explicitly disclose a composition that contains, inter alia, 20.7 wt% aluminum chlorhydrate dihydrate (i.e. polyaluminum chloride dihydrate), 0.6 wt% germicide (alkyl isoquinolinium bromide), 47 wt% ethanol (has biocidal activity), and 0.5 wt% “B.T.C. 2125” (alkyl dimethyl benzyl ammonium halide). See Example 1 on page 2. See also similar Examples 4, 6 and 7 on pages 3-4.

Davies’ alkyl dimethyl benzyl ammonium halide is a quaternary ammonium halide, and it has a cationic structure and quaternary ammonium halides are known surface active agents. Davies’ composition thereby contains all of the ingredients that are required by applicant’s claims 1-2. The claims are therefore anticipated.

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Howard (US 4,335,116).

Howard explicitly discloses a mixture that contains, inter alia, 10.793 g sodium salt of ethylenediaminetetracetic acid (EDTA), 2.4 g manganese chloride, and 5 ml benzyl alcohol (column 8, lines 27-34).

It is noted that Howard's sodium salt of EDTA is an amine salt. Applicant does not define what is meant by cationic amine salt surfactants, as required in claim 3. The specification provides no further guidance. In the absence of a clear definition as to the metes and bounds of claim 3 ("wherein the cationic surfactant is an amine salt"), it is the Examiner's position that Howard's sodium salt of EDTA is within the scope of claim 3. Sodium salt of EDTA would have the functionality of forming soluble chelates with divalent and trivalent metals<sup>1</sup>. Enhanced solubility of the metal species is an enhancement of the overall surface active properties of the composition. Additionally, benzyl alcohol qualifies as "organic biocide" because it is known to possess antimicrobial properties<sup>2</sup>. Therefore, Howard's ingredients meet the claim requirements of claims 1-2. Further, Howard's final mixture is formulated such that the concentrations of the above-mentioned ingredients are within the broad concentration of applicant's claims (see column 8, lines 27-34). The claims are thereby anticipated.

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<sup>1</sup> See The Merck Index, 12<sup>th</sup> ed., page 593, item nos. 3556, 3557, 3558.

<sup>2</sup> See The Merck Index, 12<sup>th</sup> ed., page 189, item no. 1159.

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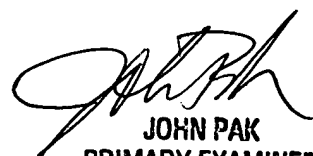
Any inquiry concerning this communication or earlier communications from the Examiner should be directed to JOHN PAK whose telephone number is **(571)272-0620**. The Examiner can normally be reached on Monday to Friday from 8 AM to 4:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's SPE, Gary Kunz, can be reached on **(571)272-0887**.

The fax phone number for the organization where this application or proceeding is assigned is **(571)273-8300**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
JOHN PAK  
PRIMARY EXAMINER  
GROUP 1620